

# **SPEECH AGAINST THE CON- SCRIPT ACT**

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DELIVERED BY  
**THOS. E. WATSON**

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AT  
**THOMSON, GA.**  
**JUNE 23, 1917**

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# Speech Delivered by Thos. [E.] Watson, at Mass Meeting at Thomson, Ga., June 23, 1917

**FELLOW-CITIZENS:**

As perhaps most of you know, I have had less to do in the calling together of this assemblage, than with any other meeting here in Thomson, that I ever addressed.

Neither in *The Jeffersonian*, nor in any other paper, within my knowledge, has my name been mentioned—and no one has been authorized to state that I would appear here, as one of the speakers.

The extent of my personal connection with it, was the assurance given by me to a committee of my Dearing friends, that, if the people saw fit to hold such a meeting, I, as a citizen, a taxpayer, and a lover of my country, would be present, and give my views on the subject which so profoundly agitates the public mind.

In the years gone by, we have held many a mass-meeting in this Court-Room.

Nearly thirty years ago, we started, in this room, the great fight on the Jute Bagging Trust—a fight which spread from this county, to other counties throughout the State—and from this State to other States, until all Dixieland was in revolt against an oppressive combination, which was remorselessly victimizing the cotton-growers of the South; and as you well remember, the movement which we started, here in this Court House, finally brought that insolent Trust to its knees.

That was nearly thirty years ago: many of those who are here today, were not here then; and many of those who were here then, are not here today, nor will they ever meet with us again, in this world.

Many of you, like myself, have lived out the greater part of your lives—

there are more years behind you, than there are before you.

Personally, I have perhaps less interest in the recent acts of the government, than almost any citizen, for I am too old for military service, have no son who comes within the act of conscription, and my only grandchildren are little girls. Therefore, long before the most of the consequences which I fear, from this new Congressional legislation, can come upon the country, my dust will have mingled with that of my ancestors, who, like yours, fought and suffered and bled, to establish those liberties that are now endangered.

All over this country roundabout—on hill and plain, and valley, those heroic forefathers of ours marched—hungry, tattered, barefooted—leaving bloody footprints to tell which way they marched, on their route to the battlefields where they won the glorious right of independent self-government.

Are we a lot of degenerates?

Have we lost the spirit of robust manhood?

Are we such cowards that we dare not re-assert our historic rights, and demand that the government respect them?

All over this country you hear people say they are afraid to speak out against what Congress has done.

They are afraid to sign a petition for the redress of grievances.

In some cases, those who have signed, become frightened, and they send word to have their names taken off.

They are afraid they will be arrested; they're afraid they'll be put in jail.

They are intimidated by the word "*Treason*."

On the streets, in the newspaper offices, and on the highways, there's a

new crop of lawyers, suddenly born into the world, who are experts in constitutional law.

They went to sleep last night with their heads pillowed on the Code, and they woke up this morning with their brains saturated with the principles of jurisprudence!

These spring-branch lawyers, swarming throughout the land, tell you, that if you criticise Congress, it's "TREASON!"

If you abuse the President, it's "Treason!"

If you condemn the recent course of the government—it's "Treason!"

Before I go any further, let me tell you, once for all, that the Constitution of the United States said the last word on treason, and this supreme law of the Republic, exclusively defines what treason is, and ever shall be, so long as that Supreme Law remains unamended by three-fourths of the States.

Our forefathers did not intend that the barbaric treason laws of England should ever become the excuse for judicial murder, in this free Republic.

They did not intend that any man should be put to death for anything he said, or anything he wrote.

They meant to bury, forever, the constructive treason of the British statutes, and therefore they not only defined treason in the Constitution, but they used the word "ONLY," which in that connection, weighs a ton.

Congress has no authority to abolish that word "only."

Congress has no authority to modify that definition of treason.

No act of the President, no act of the two Houses, no decision of the Supreme Court, no legislative action of any State, can enlarge or diminish, the constitutional definition of treason.

Let me read it to you:

"Treason against the United States shall consist ONLY in levying war against them, or adhering to their enemies [in time of war], giving them aid and comfort. No person shall be convicted of treason, unless on the testimony of two witnesses to the same overt act, or confession in open court."

Have you been waging war by open

acts of hostility against the government?

Have you taken your Winchester rifle and fired upon the State of Georgia?

Have you gathered up your six-shooter or shotgun, and gone on the war-path against the State of Tennessee?

If so, you are guilty of treason.

Have you, since the second day of April, 1917, openly aided and abetted the German Kaiser, by giving him a battleship or a submarine, or a cargo of ammunition?

If so, you are guilty of treason!

The next time one of these wet-weather branch limbs of the law, threatens you with arrest and imprisonment for treason, you shake your finger in his face and tell him you know what your legal rights are, and that you defy any man, official or otherwise, to harm a hair of your head, until a grand jury of your county has indicted you, and a petit jury has returned a verdict of "guilty."

In every city and town the corporation has its local ordinances, and in every one of these there is an India-rubber provision against disorderly conduct. Under the administration of an arbitrary mayor, council or police court, it is possible for almost any unusual conduct to be punished as "disorderly."

But—no citizen of this Republic can be tried, for any alleged crime against the State, or the Federal government, unless the grand jury indicts, and the petit jury convicts.

Whenever you are threatened with a prosecution for treason or sedition, or any other of these offenses that are being hinted about, answer back: "I demand indictment by the grand jury, and am ready to give bond for my appearance to stand trial, if indicted."

That demand stops everything until the grand inquest, composed of your fellow-citizens, in your own county or Federal district, have formulated legal charges against you.

Of course, if you couldn't give the bond, you would have to lie in jail, awaiting the action of the grand jury.

Is it such a very terrible thing to lie in jail?

Does the thought of such a thing turn your backbone into water?

Does your manly courage ooze out, at the very thought of having to go to jail?

Better men than you and I have gone to jail, and lain there year in and year out, rather than budge an inch, before the aggressions of tyranny, or surrender one iota of conscientious convictions and rights.

John Bunyan was flung into jail, and he lay there seven years, when he could have walked out any day, a free man, if he had bent the knee to legalized oppression.

Roger Williams braved the terrors of the wilderness, and made himself a rude home among the savages, rather than abate one jot or tittle of conscientious conviction.

John Wesley was hounded, and persecuted, and ostracised in his heroic battle for what he believed to be right.

Jefferson Davis was arrested, put in prison, and shackled like a common criminal.

Alexander H. Stephens was arrested and put in prison.

Daniel O'Connell, the Irish orator, statesman and liberator, was flung into prison.

The immortal heroes of the long, hard struggle for the establishment of those very liberties which your government is lessening by arbitrary Acts of Congress, were flung into dungeons, and were led forth from those dungeons, to the fatal block, where the executioner of a tyrannical law struck off their heads with the axe.

Algernon Sidney and William Russell are names whose lustre time will never dim—and when we, who inherited the liberties for which they died, shall have ceased to prize them sufficiently to run some risk in maintaining them, our great Anglo-Saxon race will have become basely degenerate, and we will have proved ourselves unworthy of our birthright.

Let us consider for a moment, the situation in which we find ourselves.

Never before were our people so widely and deeply agitated.

Never before were a people confronted with such a complexity of troubles, so unexpectedly.

Just a year ago your Representative in Congress was facing you, as I am doing now, and begging for your votes.

Not one whisper came from him, to put you on notice, that when you voted for him in November, he would virtually forfeit the liberty and the life of your boy, before another twelve-month would roll around.

Let us be fair to everybody, and let us assume that the candidate himself did not dream, that when he received the benefit of your support, last November, he would break your heart, with his vote, in Congress, the next spring.

Just a year ago, candidates for the United States Senate were abroad in the land, asking for an endorsement of their stewardship, and a renewal of their commission.

Not the slightest hint fell from any of these candidates, to put you on notice, that if you returned them to the highest law-making body on this earth, they would, in less than six months, so violate your highest law, and trample upon your guaranteed constitutional rights, as to darken your home forevermore, and bring down the head of your wife, under the crushing load of maternal grief.

Let us be fair to those Senators, and take it for granted that they themselves, at that time, had no idea of the enormity that they would commit, by voting for conscription so soon after re-election.

This time last year the President of the United States was facing great assemblages of the people throughout the country, and was fervently pleading for peace against such fire-eaters and war-champions as Theodore Roosevelt, Henry Cabot Lodge, and Charles E. Hughes.

Those fervent appeals of the President called forth the passionate approval of the vast majority, and the wives and mothers and sisters especially, took

up the slogan, and made the Republic ring with it: "He kept us out of war!"

That was November, 1916 — where then was the Lusitania?

It lay at the bottom of the deep blue sea, where it had lain since May 5, 1915.

Where were the hundred and nineteen American travellers, Elbert Hubbard and his wife, young Vanderbilt, and the other husbands and wives, that went down with the ship? And the little children, clinging in terror to the skirts of their mothers' dresses?

Their bones were bleaching on the lonely seashore of the Irish coast, where the unfeeling waves had washed them, nearly two years before!

What about the dynamite outrages?

They were all in the past, dating long before the November election.

The principal criminals who had perpetrated those dastardly crimes against our munition plants and our workmen, had been permitted to go back to Germany, to receive the rewards of the Kaiser; and they had returned, with garments that reeked with innocent American blood, on safe conducts granted by the British government reluctantly, out of respect for the personal and official request of President Woodrow Wilson.

Where were the Belgian atrocities? and the barbarisms inflicted by Germany upon Northern France?

They all lay in the past, the very worst of them having been committed in August and September, 1914.

But let us be fair to President Wilson also, and let us assume that when he accepted another term in the highest office on earth, he did not then realize that in one short month, after he renewed his official oath, he would be plunging his country into the bloodiest abyss that ever opened to swallow the human race, and that every cause of war that he now assigns as a justification for his complete reversal of position, antedates the day he was re-elected, because he "kept us out of war."

Never before were general conditions so appalling.

The human race has never been free from inequalities and injustice.

From the very dawn of time, some have been prosperous and some unfortunate: some rich, and some poor—but never, in all the lapse of the ages, have there been such stupendous inequalities and injustices as now exist between classes and masses in this Republic.

Never before were such prodigious burdens of taxation laid upon the people, to be paid, not mainly by the rich, but mainly by the poor.

Bonded debts, to run for thirty years, in sums so immense they stagger the human mind: one bill, for military expenditures, reaching the almost incredible sum of three thousand millions of dollars, and the President, in addition to that, insisting on another appropriation of six hundred and twenty-five millions of dollars, for airships.

In Washington City it is a carnival of wild extravagance: an orgy of prodigal waste: a Bacchanalian revel of men who act as though they were drunk on power, and had lost every sense of shame, duty, and responsibility.

The expenses of the war have been so adjusted by the Senate Finance Committee, that they fall chiefly upon the masses.

The huge appropriations made will accrue to the benefit of the classes.

Great is the gathering of the vultures at the National Capital, for never before has there been such a carcass inviting them to the feast.

Three thousand millions of dollars in one appropriation! and the vultures fiercely shrieking for more.

The necessities of life put further and further away from the reach of the common people, by the lawless and insatiable combinations of Capital.

The food gambler committing crimes here in free America, almost equal to those inflicted by enraged victors upon conquered territories in Europe.

The necessities of life, incredible to tell, higher in New York, Chicago, Boston, Atlanta, St. Louis and Baltimore, than they are in London and Paris and Brussels.

It is absurd to say we are menaced by German danger.

Germany cannot send troops here in submarines.

Germany has no fleet on sea: England has: we have. In what way does she endanger us?

The Law of Nations and our own common sense, tell us that what England, France, and Germany do to each other, is none of our business.

It is not cause for us to send a million of our boys, to sacrifice their lives, so far from home.

Ten millions of our young men suddenly made the helpless subjects of a new duty to the government, never heard of in any discussion before the people, and never heard of before in the history of the human race, outside of Prussianized Europe.

Ten million free American citizens suddenly and peremptorily ordered to quit their vocations and to attend a newly-constituted tribune, to be registered like a lot of dumb cattle. To be chatechised by an inquisitorial process recently invented.

To be compelled, virtually to strip their persons naked to the eye of the Federal inquisitor, and threatened with a sentence of a year in jail, if they hesitate to perform this new, unheard of duty, and to submit their persons to that naturally repugnant inquisitorial examination.

Is it any wonder that the country is in a state of consternation?

Is it any wonder that young men are terrified, and that fathers and mothers are distracted, half-crazed by natural fears, anxieties and grief?

The jails are being filled, officers are scouring the country, searching for those who did not promptly respond to the new law.

Editors are menaced with Federal prosecutions, for daring to speak their minds; the new doctrine is being held that the Constitution is suspended during the time of war, when everybody ought to know that the Constitution is not suspended, and cannot be, and that martial law does not extend beyond the actual soldiers and the actual army, unless martial law be proclaimed in the

different localities, in accordance with the statutes, providing for just such contingencies.

In the whole history of the world, no government ever demanded such powers as this administration insists upon.

England was in the war with four million volunteers, and for three years, before conscription was adopted by the British Parliament, as the last resort to cope with Roman Catholic treason in Ireland and Canada.

No food dictator was thought of in Germany, until the second year of the war.

Australia gave her people a vote on conscription, and the Canadian government is even now refusing to resort to it, unless the people approve it, at the polls.

But in this country, before we are actually in any war; when nothing but the remotest dangers can be conjured up; when no enemy is marching against us; when our fleet and the English fleet are in such absolute control of the oceans, that not a single German vessel, capable of bearing troops, dares to show itself out of its own harbor—we are saddled with conscription; we are threatened with a food dictatorship; we are menaced with a national price-fixer, and we are not yet secure from the President's strenuous efforts to compel Congress to give him the right to gag the newspapers.

Think of it!

Who could have dreamed it, last November?

When I recall how President Wilson has clamorously contended for the right to enslave the press, in utter violation of one of the plainest provisions of our supreme law, it seems to me I can hear, as well as see, in the mind's eye, the brilliant and fearless Irish orator, Richard Brinsley Sheridan, when he stood forward in the British Parliament to denounce the royal ministers who, during the regency of the Prince of Wales, were attempting to shackle the press.

With eyes that blazed with indignant fires, and in tones that rang like the clarion's call, he thrilled that au-

gust assembly as few orators have ever done.

Cried he: "Give THEM a corrupt House of Lords; give THEM a venal House of Commons; give THEM a tyrannical Prince; give THEM a truckling court; and give to ME but an unfettered press, I will defy them to encroach one inch upon the liberties of England!"

Great God! How hard it is to realize that in one crisis of the long fight President Wilson waged against the freedom of the press, a difference of less than half a dozen votes would have effected that high-handed outrage upon the Constitution of the United States, and destroyed one of the most precious heirlooms of American liberty.

Upon the pretext of waging war against Prussianism in Europe, the purpose of Prussianizing this country has been avowed in Congress, with brutal frankness, by a spokesman of the Administration.

On the pretext of sending armies to Europe, to crush militarism there, we first enthrone it here.

On the pretext of carrying to all the nations of the world the liberties won by the heroic life-blood of our forefathers, we first deprive our own people of liberties they inherited as a birth-right.

On the pretext of unchaining the enslaved peoples of other lands, we first chain our own people with preposterous and unprecedented measures, knowing full well that usurpations of power, once submitted to, will never hereafter be voluntarily restored to the people.

Let us examine these new acts of Congress, and endeavor to ascertain whether they violate the Constitution of the United States and the time-honored principles of Anglo-Saxon liberty: if they do, we should be able to demonstrate that fact, and if we can succeed with such a demonstration, our representatives in Congress should be willing to repeal the offending statutes.

First of all, I beg to remind you that the Revolutionary War began with the

contention on the part of our forefathers, that they inherited the liberties of the Mother Country.

Let us read once more the first of the Resolutions which Patrick Henry offered in the Virginia House of Burgesses, in May, 1765.

It reads as follows:

"RESOLVED, that the first adventurers and settlers of this, His Majesty's Colony and Dominion, brought with them and transmitted to their posterity . . . all the privileges, franchises, and immunities that have, at any time, been held, enjoyed and possessed by the people of Great Britain."

Of course, the immediate result of Mr. Henry's assertion was to make good the position against the Stamp Act—to wit: that it was the right of an Englishman not to be taxed, without representation. But the Resolution itself states the broad truth, which was afterward embodied in many a superb decision of our highest courts, namely, that our forefathers brought with them from England, the native, original liberties of Englishmen, and those liberties cannot be taken from him or his descendants, without their consent.

Among the papers of Patrick Henry, found after his death, was one in which he stated that he wrote his Resolutions on the blank leaf of an old law book, without consulting with any one, and without the aid of any one.

He said in that solemn paper, which he evidently meant as a dying statement, that his Resolutions provoked violent debates, and that many threats were uttered against him, and that much abuse was cast upon him by those who favored submission to the British Parliament.

His Resolution passed by a very small majority—perhaps of one or two only, but he had taken the legal position which was as impregnable as the Rock of Gibraltar, and the contagion of Virginia's example spread to other States, bringing on the Revolutionary War, the Independence of the new Colonies, and thus our Constitution of 1787, which was meant to perpetuate those free English principles, on which



Patrick Henry spoke with such torrents of sublime eloquence.

(See Tyler's Patrick Henry, p. 62. Also pp. 75 and 76.)

As every lawyer who has really studied the principles of English law is well aware, the Great Charter of the year 1215, was nothing more than a reaffirmance by the Barons, and a re-acknowledgement by the Norman King, of the ancient and original liberties of our race.

The germs of those principles, as of all our free institutions, existed in Germany, before the great Teutonic tribes separated—some going to France, some to Britain, some to lands beyond the seas.

The peculiar, original and native rights of Englishmen were preserved and handed down in what was called the unwritten law, the common law of England. Two of those principles are as clear as the unclouded sun, and as old as organized European society.

One is, that no citizen can be sent out of the country unless he consents to it.

Another is, that no citizen can be deprived of his property, of his liberty, of his life, without due process of law.

Will any member of the legal profession challenge this statement?

From the shysters and the petty place-men of the hour, arrogant in the joy of a little brief authority, I appeal to that nobler type of lawyer, who has never failed to make himself at every crisis, the champion of the people, the unquailing, unpurchasable, unterrified advocate of those grand old principles of English law and liberty—to this type of lawyer throughout the Union I confidently appeal: the type of lawyer which put the name of Samuel Romilly and Edward Coke, and Henry Grattan, John Philpot Curran, Daniel O'Connell, Henry Brougham, Thos. Erskine and Hugo Grotius at the very forefront of human achievement and glory—I make my appeal to that type of lawyer which emblazoned the record of our profession with the names of James Otis, Dabney Carr, Patrick Henry, Luther Martin, Edmund Randolph, George Wythe, and Thos. Jef-

erson: to the type which in later days gave us such tribunes as Alex. H. Stephens, Benj. H. Hill, and Robert Toombs.

Let us go back to first principles: let us take down from the shelves those standard old law books which we bent over at midnight when we were students of the law, many and many long years ago.

Is it not time that we should be examining the foundations of our system of government?

Is it not time that we were endeavoring to re-mark, re-establish and firmly define the boundary lines of our blood-bought liberties?

Oh, my countrymen! You who are today living in a home that came down to you from your fathers: you who have been in peaceable possession all your life, succeeding a father who himself had lived in peaceable possession—your home is sacred to you, by the memories of your whole existence: by dear associations, and by the graves of your ancestors who went to their long sleep, believing that the sacred old spot would never be desecrated by the feet of the violent, lawless trespasser.

Suppose you should suddenly awake to the fact that the trespasser has come upon your inherited and sanctified premises, and was threatening to put you out by force of arms—how much time would you lose in getting ready for self-protection?

How much time would you lose in hunting up your old title deeds, and making yourself doubly sure of your rights and your land-lines?

Nationally speaking, the trespasser is on your reservation.

The lawless intruder threatens to drive you out.

Let us lose no time in making the voice of the people heard. Let us hasten, without the loss of a day, to examine our muniments of title.

I cannot believe that popular sovereignty is dead.

I will not believe that courage is extinct in the people.

Until invincible facts convince me otherwise, I will believe that you will

show yourselves men enough to stand for your rights, and to preserve those liberties which your forefathers were brave enough to win.

Is the English common law a part of the law of the United States?

Turn to that masterly and accepted standard, Cooley's Constitutional Limitations. In Chapter III., the learned author first mentions the Constitution of the United States, and the Constitutions of the various States, and then adds "But, besides this fundamental law, every State has also a body of laws, prescribing the rights, duties and obligations of persons within its jurisdiction, etc."

"By far the larger and more valuable portion of that body of laws consisted of the Common Law of England, which had been transplanted in the American wilderness, etc."

Judge Cooley then proceeds to describe the Common Law of England, and he says: "It was the peculiar excellence of the Common Law of England that it recognized the worth and sought especially to protect the rights and privileges of the individual man. Its maxim did not recognize arbitrary power and uncontrolled authority. The humblest subject might shut the door of his cottage, against the king, and defend from intrusion that privacy which was as sacred as the royal prerogatives.

The system was the opposite of servile; its features implied boldness and independence, self-reliance on the part of the people."

Then Judge Cooley speaks glowingly of how the American Colonists claimed for themselves all the rights conferred upon Englishmen by the Common Law, one of which was that trials for crime must be by a jury of the neighborhood in which the alleged criminal lived. No punishment for crime, until after indictment by the grand jury, and the unanimous verdict of the twelve in the box.

Then Judge Cooley says that by this English Common Law which became, through adoption, the American Common Law, American rights are ad-

judged, and wrongs redressed, in great part to this day.

Therefore, no lawyer can deny that the great principles of the English Common Law are ours now, just as they have been the heritage of our great unconquerable race ever since it migrated from the forests of Germany.

To the same effect, Chancellor Kent, in his commentaries, states in his twenty-first lecture, that the Common Law is the application of the dictates of natural justice, and of cultivated reason to particular cases.

He quotes the language of Sir Matthew Hale, who says that the Common Law is not the product of the wisdom of some one man, or society of men, or any one age; but of the wisdom, counsel, experience and observation of many ages of wise and observing men.

Chancellor Kent repeats the accepted doctrine, that the English Colonists brought with them to this country those Common Law principles which peculiarly concern themselves with the protection of the individual citizen in his personal liberties and rights.

(Kent's Commentaries, Vol. I., Secs. 469 and following.)

Therefore it is established beyond all question, that those principles of the Common Law which have not been specifically set aside by the various Constitutions, adopted by the people in this Republic, are today a part of the law of the land.

Let me give you an illustration: You and I contracted statutory marriages; we went to the Ordinary, applied for a license, delivered that license to a minister of the Gospel, and invoked his services to perform the ceremony which completed the statutory marriage.

But for thousands of years, it has been the law among our people, that the statutory marriage was not the only one. You could take your loved one by the hand, she consenting, and lead her to the presence of two or three friends, and you could say to her: "I take you for my wife, for better or for worse, in sickness and in health, till death do us part."

And she could say to you: "I take you for my husband, and I will be true

to you as long as life shall last," and these simple declarations, constituting a civil contract between the free man and the free woman, made a perfectly legal marriage.

It is so in Georgia at this very day.

By the decision of the highest court in the great State of New York, it is the law of that imperial commonwealth, at this very hour.

I mention this simply as an illustration of the Common Law, which you will not find in any of the codes—State or Federal.

In like manner, there are other Common Law rights which do not depend upon written codes. One of these Common Law rights which, according to Sir Edward Coke and Sir William Blackstone, constitute a part of our Common Law rights, is that of abiding in our own country, so long as it is our pleasure to remain there.

The most tyrannical king of England never had the lawful power to send a subject out of the realm against the will of that subject.

The veriest plowman that ever wore hoddens gray and munched his crust of dry bread, to satisfy his hunger at the end of a day's work, could stand firmly upon the soil of Old England and defy the most tyrannical king who ever arrayed himself in the purple and fine linen of royal office, and could say to that king: "It is my right to abide in my native land."

No Act of Parliament could ever banish the citizen, except as a punishment for crime, after indictment by the grand jury, and the unanimous verdict of the twelve in the box.

The soldier who voluntarily enlisted, became of course a soldier for all purposes, and he could be sent, at the command of his superiors, to the uttermost ends of the earth, but I challenge any lawyer in this Union to controvert the proposition, that no subject of Great Britain was ever forced out of those islands against his will, prior to the year 1917, except as a punishment for crime, or because of his voluntary enlistment, or illegal kidnapping, into the Army and Navy.

I stand flat-footed upon that assertion: I challenge contradiction: I defy the historian, or the lawyer, or the publicist, or the arrogant official, who is now cracking his whip over the intimidated American people.

I defy him to show that any such outrage was ever perpetrated upon the men of Old England, as now threatens the young men of this Republic.

(See Blackstone's Commentaries, Book 1, Pars. 137-138, and the decisions cited in the Sharswood Edition of 1877.)

Another one of these original and native rights of the Anglo-Saxon is, that he shall not be deprived of his property, his liberty, or his life, without due process of law.

When that provision was written into Magna Charta, 700 years ago, it was not a new doctrine. It was an old doctrine, reasserted by brave men who had swords in their hands, and meant to die as rebels against a tyrannical king if he did not consent to the restoration of that ancient birthright of all Englishmen.

Those rebels who, with drawn swords, confronted their usurping king at Runnymede, in the year 1215, were not clamoring for a novelty, innovation, or revolutionary change.

On the contrary, they unfurled their banners, erected the standard of rebellion, and drew their swords against the king, to prevent a revolutionary change of law which threatened to destroy the rights of the individual, and to give the king unlimited power over the property and the persons of Englishmen.

Rather than submit to this, they preferred to fight, and to die.

(See Cooley's Constitutional Limitations, Chap. III. and notes: pars. 311, 314; 209; 430.)

Has the terrible necessity come upon us again to learn, that in every government, the tendency of power is, to encroach?

Human nature is just so constituted that no mortal can be safely trusted with too much authority: he will abuse it; the record of the human

race teaches this with a sadder emphasis, than almost any other lesson.

Patrick Henry said, in the times that tried men's souls: "Eternal vigilance is the price of liberty."

Herbert Spencer said, that in all republics, the existence of free principles depended upon prompt and fearless resistance to the encroachments of those who are in power.

At this very day, when weak citizens throughout the land are committing suicide, because of the horrible measures recently adopted by the Wilson administration, there is an imperative demand upon the stronger men, that they denounce these unlawful encroachments, and combat these unconstitutional acts of Congress, by those peaceable methods, which the wise foresight of our ancestors provided in the Supreme Law, for that very purpose.

By the original, native rights of our great white race, every member of this unconquerable family was safeguarded in his property, in his liberty, in his life—until a jury of his equals, after hearing all the evidence, both ways, decided that they were forfeited.

The property might be the humblest little bit of scraggy land, with a ruined hut upon it, as the great Earl of Chatham said in the British Parliament: it might be a ruinous tenement in which the snow and the rain could beat and enter, but the King of England could not cross that threshold, without the written authority of the law.

The citizen who was thus protected by the primeval principles of Anglo-Saxon law, might be the very humblest, meanest, most insignificant of all human beings, but the law was no respecter of persons: it drew no line between the palace and the hovel: it thought no more of Dives, at the banquet board, than of Lazarus, grovelling at the gate.

Great God! Must we Americans of this twentieth century bid farewell to those sacred principles of personal liberty, that were as sturdy as the oaks in the German forests, when Jesus Christ, a homeless wanderer in Pales-

tine, was preaching his Sermon on the Mount?

Have we lived to see the day when the revered name of Democracy will be prostituted to the most terrible wrongs that were ever perpetrated against a free people, whose inherited, priceless, blood-bought jewels of personal rights were fondly believed to be treasured forever in the casket of constitutional law?

Let us consider for a moment the meaning of the words: "no man shall be deprived of life, liberty or property, without due process of law": does that mean by act of the Legislature, or by act of Congress? If so, it was a waste of time to write them into that permanent declaration called the Constitution, which Congress was forbidden to change, unless three-fourths of the States, by legislative action, demanded that change.

If there is any principle, which no competent lawyer will dispute, it is that the Constitution of the United States which the President swears to support, must be supported as written, until amended in the manner which the Constitution itself prescribes.

President Woodrow Wilson, on the 4th of March, 1917, called God and the people to witness that he renewed his oath of fidelity to this Constitution.

In that Constitution it is written in the plainest possible language, that no citizen of this Republic shall be robbed of his liberty, coerced in his conduct, made to serve against his will, except by due process of law.

Again I appeal to all lawyers to speak out, and tell the people the meaning of those words.

Time and again the highest authorities, the standard writers, the highest courts have held, that an Act of Congress is not due process of law.

A statute passed by the Legislature, is not due process of law.

No man can be deprived of his life, by the Act of the Legislature.

No man can be robbed of his property, by Act of Congress.

The law of Eminent Domain subjects your property to the service of your

country, but the causes and the methods are jealously guarded.

Judge Cooley in Chap. XI. of his standard work, enters at large upon the discussion of what is meant by the phrases "due process of law," and "the law of the land."

There never was a time in the history of our Republic, when that chapter deserved more prayerful consideration.

Sir William Blackstone said that the Great Charter of our liberties would have deserved its name, had it contained no other provision than that "no free man shall be taken, or imprisoned, or disseized, or outlawed, or banished, or any ways destroyed, nor will the king pass upon him, or commit him to prison, unless by the judgment of his peers, or the law of the land."

No free man shall be taken!

Thus spoke the Barons who held their gleaming swords in their hands.

It was seven hundred and two years ago, this summer. They were not proclaiming a new principle. They were resurrecting an old one. They were calling upon it to roll away the stone, and to come forth radiant, with renewed life, from the sepulchre in which a tyrannical monarch had haughtily supposed he had buried it forever.

In this free Republic ten million free men have already been taken, not by due process of law, but by the arbitrary act of a government, drunk on power!

No free man shall be imprisoned!

And yet the jails today are crowded with free Americans whom no grand jury has accused, and no traverse jury convicted.

No free man shall be banished!

And yet, by the living God, the President of the United States publicly declares that we will banish millions of American citizens, and send them to die on foreign fields of blood!

In the name of the Almighty, what spirit of evil has taken possession of the Federal government?

How is it that madness so rules the hour in Washington?

Who can explain the spell of terror which has fallen upon the once fearless and independent people of this Union?

Judge Cooley quotes the definition laid down by Daniel Webster during his argument in the celebrated Dartmouth College case: "by the law of the land, is most clearly intended the general law; a law which hears, before it condemns; which proceeds upon inquiry, and renders judgment only after trial. The meaning is, that every citizen shall hold his life, liberty, property and immunities under the protection of the general rules which govern society."

Judge Cooley says, par. 354, that a legislative act is not necessarily the law of the land.

He says that the words, "by the law of the land," as used in the Constitution, do not mean a statute, passed for the purpose of working the wrong. *That construction would render the restriction absolutely nugatory, and turn this part of the Constitution into mere nonsense.*

The people would be made to say to the two Houses (of Congress, of course), "you shall be vested with the legislative power of the State, but, no one shall be disfranchised, or deprived of any of the rights or privileges of a citizen, unless you pass a statute for that purpose. In other words, you shall not do the wrong, unless you choose to do it!"

Could language be plainer?

Could any standard authority more emphatically deny the right of Congress to confiscate the liberties of the citizen, by the mere passage of a statute to that effect?

Judge Cooley, in his foot-note cites more than a dozen decisions of the highest courts, to the effect that an Act of Congress, or an Act of the Legislature is not the due process of law, and is not the law of the land, which can legally deprive the citizen of his property, his liberty, or his life.

Paragraph 355, of Judge Cooley's book quotes the words of the Supreme Court of the United States in two different decisions, which have never been reversed or questioned.

The first quotation is: "Due process of law undoubtedly means, in the due

course of legal proceedings, according to those rules and forms which have been established for the protection of private rights."

The second quotation is as to the words from *Magna Charta*. " \* \* \* \* the good sense of mankind has at length settled down to this,—that they were intended to secure the individual from the arbitrary exercise of the powers of government, unrestrained by the established principles of private rights and distributive justice."

(Some of the decisions cited are as follows: *MacMillan v. Anderson*, 95 U. S. 37; *Pearson v. Yewdal*, 95, U. S. 294; *Davidson v. New Orleans*, 96, U. S. 97.)

Judge Cooley in par. 356 superbly sums up the gist of all these decisions, saying: "Due process of law in each particular case means, such an exertion of the powers of government as the settled maxims of law permit and sanction, and under such safe-guards for the protection of individual rights, as those maxims prescribe."

Use your native intelligence, and apply these legal principles announced by the highest authorities, and by the highest court in the world, and answer me this question:

How does the Conscription Law, rushed upon the people by Congress, in April, 1917, accord with the time-honored principles of *Magna Charta*, as embodied in the Bill of Rights of every State, and as crystalized in the Constitution of the United States?

If Congress, under the whip and spur of a President, can abolish the Constitutional guarantees, which were supposed to perpetually sanctify your personal liberty, then it logically and necessarily follows that you hold your property, and your life at the mercy of a partisan majority in your National Legislature.

But there is another clause of the constitution which is violated by the conscription law; it is the Thirteenth Amendment to the Constitution of the U. S., adopted in 1865.

Of course the intention of the government was, to protect the negro, but

it would be strange indeed, if it did not equally protect the white men.

The plain prohibition of this supreme law is, that neither slavery nor involuntary servitude shall exist in the U. S., except as a punishment for crime, after indictment by grand-jury, and a verdict of guilty, by the petit jury.

As everybody knows, the prepositions "neither" and "nor" are disjunctive; they separate, instead of uniting; the subjects referred to; consequently, the use of those words prove that the constitution means to prohibit any form of involuntary servitude, although such servitude might not amount to slavery.

For instance: the Federal Courts have punished white men in various parts of the South, because those white men co-erced negroes into working out the debts which those negroes had contracted.

You can't make a negro plow for you this year, because he came out in your debt, on the transactions of last year.

If you co-erce him in any way to give you his labor, against his will, because of last year's debt, you are guilty of peonage. It is not a system of slavery, because you certainly could not buy and sell negroes under the peonage system.

But if the negro is not willing to work out the debt, and you exercise any sort of duress over him, to compel him to do it, it does amount to involuntary servitude.

Now let me ask this plain question, in the utmost good faith;

Has the Federal Government, since the adoption of the Thirteenth Amendment, in 1865, had any lawful authority to establish a system of slavery, or of involuntary servitude, except as a punishment for crime?

Where is the lawyer who will contend that Congress has the authority to call into the service of the government, a million men to construct post-roads, work upon the harbors, and the dock-yards; labor at the arsenals, or in the National Parks?

Where is the member of Congress who would dare to introduce a bill, compelling all young men to register, in order that the government might

make a selective draft of those who are needed to build forts and ships?

Yet, it must be perfectly clear to every mind, that the government has just as much right to create a system of servile labor, as it has to create a system of unwilling service in the Army.

The language of the Supreme Law is without limit, and without qualification.

"NEITHER slavery, NOR involuntary servitude shall exist in the U. S."

Can any man say that the Conscription Acts do not create a system of involuntary servitude?

Does any man deny that it was railroaded through Congress for that very purpose?

We read in sacred and profane history, of the imperial requirements that the people go up and be numbered, for the purpose of taxation; but never before since written records preserved the doings of tyrants in office, has any great nation, calling itself a free people, and shielded from usurpation by a free Constitution, been required to drop all peaceful pursuits, appear before official autocrats, and register themselves as fit subjects to be sacrificed to a barbaric god of war, in a foreign land.

My Countrymen, I hold here in my hand, the published report of James Madison, of the secret proceedings of the Constitutional Convention of 1787. Almost at the beginning you see here, on page 67, where it was proposed to invest Congress with the unlimited power to raise armies, just as it was invested with the unlimited power to establish postoffices, to coin money, to establish rules of naturalization, to regulate commerce, to borrow money, and emit bills of credit.

I turn to later pages in the book, and find, where long-headed statesmen warned the Convention against the inherent danger of maintaining standing armies in time of peace.

We go from page to page, and we notice how those wise men deliberated upon the best method of safe-guarding our liberties against the well recognized danger of the standing Army.

At length, on page 705, near the close

of the sessions of the Convention, we find that our forefathers agreed that the best way to safeguard democratic principles, and republican institutions against the admitted and formidable menace of the standing army, was to limit military appropriations to two years.

It was argued that the Representatives would have to return to the people every two years, to give an account of themselves, when asking a re-election, and that therefore a two year limit on an appropriation to raise armies, would forever secure our people from the admitted menace of the standing army in time of peace.

In Macaulay's History we read that it was a recognized truism, "a fundamental principle of political science, that a standing army and a free Constitution could not exist together."

(See Macaulay's History of England, Chapter XXIII., p. 259.)

In Hallam's Constitutional History, we find him quoting an English statesman who was not a democrat, and who had no grievance against the government, as saying:

"A standing army . . . are a body of men distinct from the body of the people; they are governed by different laws; blind obedience and entire submission to the orders of their commanding officer is their only principle. The nations around us are already enslaved, and they have been enslaved by those very means. By means of standing armies, they have every one lost their liberties. It is indeed impossible that the liberties of the people can be preserved in any country, where a numerous standing army is kept up."

(Constitutional History of England, page 778.)

Not only has this Congress provided for a standing army of half a million men, but the military appropriations made, by the authorization of bonds and direct expenditures from the Treasury, absolutely trample out of existence the two year safe-guard so carefully constructed by the makers of the Constitution of the United States.

So far as the State Militia is concerned, the Supreme Law leaves no

room for doubt; it cannot be legally used by the Federal Government for any other purposes than those named in the Constitution—to repel invasion, to suppress insurrection, and to enforce the laws.

In the Conscription Acts therefore, a revolution is precipitated upon the country, and what is the reason alleged for this overthrow of fundamental principles—the headlong rush into governmental usurpation?

If you will carefully consider the War Message, issued by the President, you will see that this government is plunging into the European cataclysm for three purposes:

First, to avenge the injuries inflicted by Germany upon the United States.

Second, to avenge the injuries inflicted by Germany upon certain European nations.

Third, to avert the menace to our liberties, involved in German industry, German commerce, German conquest of territory, and German militarism.

Very briefly I will say, that the record as presented by the President himself, in his War Message, discloses the amazing fact that Germany has not changed her attitude in the slightest, nor inflicted any additional wrong upon us, since February 26, at which time the President went before Congress and read a carefully prepared address in which he declared that our position should be that of armed neutrality.

This means of course, that we should have got ready to repel any invasion of our soil, and should use our fleet to protect our commerce upon the ocean.

Just a few days before the President renewed his oath of office, he apparently had no thought of sending vast armies to Europe, no thought of interfering and crushing the military system of Germany, no thought of employing huge armaments to check the expansion of German industry, commerce and territorial expansion of the Old World.

As I have already said, what was writ, was writ.

It all preceded the President's as-

sumption of the attitude of armed neutrality. He was already in possession of the facts. He was in possession of Germany's threat of ruthless enforcement of her blockade.

Everything that he knows now, he knew on the 26th day of February, when he took up his position of armed neutrality.

In the name of a just God, what has happened *since*, to justify such a complete and tragic reversal of the President's position?

I cite the highest standard on the Law of Nations, Vattel—the authority used again and again in Congressional debates by Daniel Webster, Henry Clay, John C. Calhoun, Alex. H. Stephens and Robt. Toombs.

Go and read what Vattel says about the legal causes of war, and see for yourself how slight ours are.

What is the cause of this war?

It resolves itself into this question: What is legal notice of a blockade?

England has blockaded Germany; Germany has blockaded England. The blockade runners want to get to these two nations, for the big money there is in it. (Vattel 335.)

If we have loaned money to England and France to help make war, we have not been neutral. We are still doing it—the Liberty Bonds prove it. J. P. Morgan cleaned up ninety million dollars as part of his share.

Vattel lays down as authority that, if we supply one warring nation with what it needs, we are not neutral.

I have contended all along that we have no moral right to sell to England, France and Russia: a nation holding the high moral attitude we do, should not give a man a new pistol, when the old one is worn out.

Germany didn't need guns nor food—England needed both.

The men who supplied both got rich, and they want to get richer.

The powder trust, steel trust, automobile trust, beef trust, flour trust, shoe trust, cloth trust, want to heap up mountains of gold on the blood of our sons.

What is legal notice of a blockade?

I contend that suspected vessels



should be detained until they can be searched.

When that law was framed, the submarines were not invented.

Germany contends (and this is not sound law until the Law of Nations has been changed) that the nature of the submarine makes it impossible to give a warning without destroying the usefulness of the submarine.

Germany gave due notice that on and after February 1st, all vessels entering the blockaded zone would do so at their own risk.

Germany says a published notice is all that is necessary.

Congressman Mason of Illinois, started to fight for an amendment to the conscription law, on June 17, in the House of Representatives, to keep your sons at home.

Meetings of protest are being held from Maine to California.

Why were not the volunteers permitted to go, under Roosevelt?

Let any man go to fight, who wants to go.

The injuries to ourselves, of which complaint is now made, have been condoned by repeated and official assurances of continued friendship, and by proposals to mediate a peace without victory for any combatant, or humiliation for any.

The President said himself, that peace could not be permanent if any

of the belligerents were vanquished and left with rankling memories.

*And he also said in his speech of May 13, 1917, that we are not in the war because of any particular grievance of our own.*

From the Woodrow Wilson of April 2nd, I appeal to the Woodrow Wilson of December and January, and say without fear of contradiction from any source, that if the Woodrow Wilson of January, 1917, was anywhere in the neighborhood of right, the Woodrow Wilson of April the 2nd, 1917, was nowhere in its vicinity.

According to Vattel's Law of Nations, and according to principles laid down by Chancellor Kent in his Commentaries, no Nation has any right whatever to interfere by force of arms, with the governmental system of another.

Neither has any Nation the right to avenge the wrongs inflicted by some other Nation upon one of its neighbors; nor has any Nation the right to make war upon a neighboring Nation, because of its growth in power, unless that growth is an immediate, urgent and unavoidable menace to the safety of the smaller nation.

(See Vattel Law of Nations, pages 302, 305, 306, 335.)

*NOTE: The foregoing is the gist of the address, although its length—two hours—was too great for us to give it in full in this pamphlet.*



# Additional Facts for You to Consider

1st. That we are proposing to give Germany an all-under hold, by going to attack her at the place which her experts selected at their leisure for the purposes of defense, and which they have had three years to fortify and make impregnable, so far as military art could achieve its object.

Is it sound common sense and sound military tactics to make war upon the enemy where we are weakest, and farthest away from our base of supplies and reinforcements?

Shall we surrender, voluntarily to the enemy, the vast advantage of making the fight on ground that the enemy chooses, and fortifies, and which is nearest to the enemy's base of supplies and reinforcements?

2nd. If we were to spend the same amount of money in fortifying our own country against attack, that we are now spending to finance the fighting in Europe, would we not thereby render our own country perfectly safe from attack?

Does not the loss of every American soldier, killed in Europe, weaken our man-power for the purposes of self-defense?

Does not the loss of every billion dollars, sunk in the European War, lessen, to that extent, our money-power for self-defense?

3rd. Germany and her allies can draw soldiers from populations numbering nearly two hundred millions.

Russia is virtually out of the war, and therefore the European nations that are fighting the German allies, can only draw from populations—France, England and Italy—numbering about one hundred and twenty-five millions.

Therefore, you see, at a glance, what England expects of us; in fact, England's expectation has been expressed in the British Parliament, during the last few days, by Sir Edward Carson, a member of the government:

England expects us to make good what she lost when Russia drew out of the war; consequently, our government has assumed the tremendous burden of putting at least four or five millions of our best young men on the European battle-lines, with the certainty that at least one million of these American soldiers will be killed every year, as long as the war shall last.

Are you prepared for that stupendous sacrifice of the best soldiers that our country can produce?

4th. When the government demands of the people, within six months of the time war was declared, such colossal outlays as seventeen billions of dollars, and two millions of men, the reasons actuating the government should be made so plain, that the simplest mind will understand.

Has that been done?

The latest declaration upon the subject, from official sources, is that made by the Hon. Robt. Lansing, Secretary of State, and we must assume that he speaks by authority of the President.

Mr. Lansing, in his address to the sixteen hundred officers in New York, a few days ago, contradicts what the President said in his Red Cross address, contradicts what Secretary Laue said, in his speech to the assembled workers of his department, and contradicts what Secretary McAdoo said in his talk to the bankers and business men, at Des Moines, Iowa.

Mr. Lansing discards all the previous statements, that we are in the war for an ideal, and to make the world "safe for democracy." He no longer makes the astounding assertion that our Government was created for world-wide aggressiveness, in the interest of world-wide democratic institutions.

Mr. Lansing no longer makes the amazing assertion, that we are not in the war because of any special grievance of our own; on the contrary, he now says to the young officers who have

volunteered to sacrifice their lives in Europe, that they are going across the ocean, to do battle against Germany, in order that our own future may be safe from German attack.

If you will think the facts over, it will occur at once to your mind, that never before in the history of mankind, did any nation involve itself in such prodigious sacrifices of treasure and of blood, to ward off what is now admitted to be, by the Secretary of State, a danger—not to our present, but to our future, and therefore imaginary, instead of actual.

With a wave of his hand, the Secretary of State puts aside the contention that we have set out to repel an attack which Germany has already made upon us.

With a wave of his hand, Secretary Lansing disposes of the silly contention that we have been attacked.

He abandons all the former pretenses made by Mr. Lane, made by Mr. McAdoo, and made by Mr. Wilson, and he now says that we are not fighting on account of anything that Germany has done in the past, or is now doing, in the present, but on account of something Germany may do, in the future.

Great God! What are we to think of our head men at Washington, when none of them agrees with any other, as to the true cause of the war, and when such prodigious outlays of money and men have already been pledged to this preposterous undertaking.

5th. Is it worth while to remind the world that the Law of Nations and of God are against us, when we make war without having a just cause?

Is it worth while to remind our public servants in Washington City, that they are the sworn subjects of the Constitution of the United States, and that this Constitution does not authorize, or contemplate any other kind of war, except one of self-defense, when our country is being invaded by armed foes, or when domestic insurrection and concerted resistance to the laws of the United States threaten the existence of the Government.

6th. In preparing for this European adventure, the Federal Government has already created a huge standing army of enlisted men, numbering 800,000: that regular army is to be kept in this country.

*What for?*

Already the Executive branch of the Government has swallowed the Legislative, and the President has demanded and secured more personal power than any Kaiser ever possessed.

*What for?*

Not only has Kaiser Wilson made himself absolute Dictator of Congress and the Army, but he has established a dictatorship over the staff-of-life of 100,000,000 people.

*What for?*

Already there has been created at Washington a government by autocratic Bureaus, fully as arbitrary and autocratic as any that ever existed in Russia or Germany.

*What for?*

Already, the people are suffering from the insolent intimidations of spies, deputy marshals, postmasters, recruiting officers, and District Attorneys?

*What for?*

Already, the Government has created a machinery for the utter destruction of free speech, free press, peaceable assemblage, *and of the legitimate agitation of righteous discontent.*

WHAT FOR?

7th. Study conditions carefully and ask yourself whether it does not seem to be the fixed purpose of the Federal Government to obliterate the States, abolish the Militia, destroy our Constitutional guarantees, and to establish a military despotism for the benefit of the Aristocrats of Special Privilege.

The classes need a huge Standing Army, to overawe the oppressed masses, and to compel the mute submission of the victimized producers, while they are being inhumanly plundered and oppressed by the insatiable beneficiaries of class-legislation.



**D**ID YOU KNOW that, in England—

The Roman Catholic Hierarchy suppressed the book which informed the people of the lewd, obscene questions which bachelor priests put to women in the privacy of the Confessional Box?

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